

ASSEMBLY BILL

No. 2521

Introduced by Assembly Member Jones

February 23, 2006

An act to amend Sections 12071, 12072, 12076, 12078, and 12082 of, and to repeal and add Section 12083 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2521, as introduced, Jones. Firearms.

Existing law requires persons provides hold a federal firearms license to either obtain a verification number from the Department of Justice when delivering, transferring, or selling a firearm to another federal firearms licensee, or show proof of exemption from local licensing requirements. Violation of these provisions is a misdemeanor.

This bill would revise those provisions by removing the option of showing proof of exemption from local licensing and require the transferors to obtain a verification number. The department would then determine if an exemption applies, as specified. The bill would expand the use of the verification number by the department for certain purposes. Violation of these provisions would be punishable as a misdemeanor.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

Existing law requires a person who as a dealer, importer, manufacturer, or collector of firearms holds a federal firearms license, and whose licensed premises are within the state, to provide a copy of the license to the Department of Justice, as specified. A violation of these provisions is an infraction.

This bill would repeal those provisions and instead provide, commencing January 1, 2008, for a centralized list of federal firearms licensees who are exempt from obtaining a firearms dealer license pursuant to state law. Among other things, to be on the centralized exempted federal firearms licensee list, the licensees would have to provide the basis for their exemption to the department. The bill would provide that supplying a fictitious name, knowingly supplying false information or knowingly omitting information from the declaration would be punishable as a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

The bill would authorize, commencing January 1, 2008, the department to assess an annual fee upon those licensees for purposes of maintaining the list and for other enforcement and compliance costs. The bill would provide that those licensees may not import or receive firearms unless they are listed on the centralized list of exempted federal firearms licensees or exempted firearms manufacturers.

A violation of that requirement would be punishable as a misdemeanor.

The bill would require certain records be kept for specified periods of time by the exempted federal licensees.

A violation of those provisions would be punishable as a misdemeanor.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12071 of the Penal Code is amended to
2 read:

1 12071. (a) (1) As used in this chapter, the term “licensee,”
2 “person licensed pursuant to Section 12071,” or “dealer” means a
3 person who has all of the following:

4 (A) A valid federal firearms license.

5 (B) Any regulatory or business license, or licenses, required
6 by local government.

7 (C) A valid seller’s permit issued by the State Board of
8 Equalization.

9 (D) A certificate of eligibility issued by the Department of
10 Justice pursuant to paragraph (4).

11 (E) A license issued in the format prescribed by paragraph (6).

12 (F) Is among those recorded in the centralized list specified in
13 subdivision (e).

14 (2) The duly constituted licensing authority of a city, county,
15 or a city and county shall accept applications for, and may grant
16 licenses permitting, licensees to sell firearms at retail within the
17 city, county, or city and county. The duly constituted licensing
18 authority shall inform applicants who are denied licenses of the
19 reasons for the denial in writing.

20 (3) No license shall be granted to any applicant who fails to
21 provide a copy of his or her valid federal firearms license, valid
22 seller’s permit issued by the State Board of Equalization, and the
23 certificate of eligibility described in paragraph (4).

24 (4) A person may request a certificate of eligibility from the
25 Department of Justice and the Department of Justice shall issue a
26 certificate to an applicant if the department’s records indicate that
27 the applicant is not a person who is prohibited from possessing
28 firearms.

29 (5) The department shall adopt regulations to administer the
30 certificate of eligibility program and shall recover the full costs
31 of administering the program by imposing fees assessed to
32 applicants who apply for those certificates.

33 (6) A license granted by the duly constituted licensing
34 authority of any city, county, or city and county, shall be valid
35 for not more than one year from the date of issuance and shall be
36 in one of the following forms:

37 (A) In the form prescribed by the Attorney General.

38 (B) A regulatory or business license that states on its face
39 “Valid for Retail Sales of Firearms” and is endorsed by the
40 signature of the issuing authority.

1 (C) A letter from the duly constituted licensing authority
2 having primary jurisdiction for the applicant's intended business
3 location stating that the jurisdiction does not require any form of
4 regulatory or business license or does not otherwise restrict or
5 regulate the sale of firearms.

6 (7) Local licensing authorities may assess fees to recover their
7 full costs of processing applications for licenses.

8 (b) A license is subject to forfeiture for a breach of any of the
9 following prohibitions and requirements:

10 (1) (A) Except as provided in subparagraphs (B) and (C), the
11 business shall be conducted only in the buildings designated in
12 the license.

13 (B) A person licensed pursuant to subdivision (a) may take
14 possession of firearms and commence preparation of registers for
15 the sale, delivery, or transfer of firearms at gun shows or events,
16 as defined in Section 478.100 of Title 27 of the Code of Federal
17 Regulations, or its successor, if the gun show or event is not
18 conducted from any motorized or towed vehicle. A person
19 conducting business pursuant to this subparagraph shall be
20 entitled to conduct business as authorized herein at any gun show
21 or event in the state without regard to the jurisdiction within this
22 state that issued the license pursuant to subdivision (a), provided
23 the person complies with (i) all applicable laws, including, but
24 not limited to, the waiting period specified in subparagraph (A)
25 of paragraph (3), and (ii) all applicable local laws, regulations,
26 and fees, if any.

27 A person conducting business pursuant to this subparagraph
28 shall publicly display his or her license issued pursuant to
29 subdivision (a), or a facsimile thereof, at any gun show or event,
30 as specified in this subparagraph.

31 (C) A person licensed pursuant to subdivision (a) may engage
32 in the sale and transfer of firearms other than pistols, revolvers,
33 or other firearms capable of being concealed upon the person, at
34 events specified in subdivision (g) of Section 12078, subject to
35 the prohibitions and restrictions contained in that subdivision.

36 A person licensed pursuant to subdivision (a) also may accept
37 delivery of firearms other than pistols, revolvers, or other
38 firearms capable of being concealed upon the person, outside the
39 building designated in the license, provided the firearm is being

1 donated for the purpose of sale or transfer at an auction or similar
2 event specified in subdivision (g) of Section 12078.

3 (D) The firearm may be delivered to the purchaser, transferee,
4 or person being loaned the firearm at one of the following places:

5 (i) The building designated in the license.

6 (ii) The places specified in subparagraph (B) or (C).

7 (iii) The place of residence of, the fixed place of business of,
8 or on private property owned or lawfully possessed by, the
9 purchaser, transferee, or person being loaned the firearm.

10 (2) The license or a copy thereof, certified by the issuing
11 authority, shall be displayed on the premises where it can easily
12 be seen.

13 (3) No firearm shall be delivered:

14 (A) Within 10 days of the application to purchase, or, after
15 notice by the department pursuant to subdivision (d) of Section
16 12076, within 10 days of the submission to the department of any
17 correction to the application, or within 10 days of the submission
18 to the department of any fee required pursuant to subdivision (e)
19 of Section 12076, whichever is later.

20 (B) Unless unloaded and securely wrapped or unloaded and in
21 a locked container.

22 (C) Unless the purchaser, transferee, or person being loaned
23 the firearm presents clear evidence of his or her identity and age
24 to the dealer.

25 (D) Whenever the dealer is notified by the Department of
26 Justice that the person is in a prohibited class described in
27 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
28 the Welfare and Institutions Code. The dealer shall make
29 available to the person in the prohibited class a prohibited notice
30 and transfer form, provided by the department, stating that the
31 person is prohibited from owning or possessing a firearm, and
32 that the person may obtain from the department the reason for the
33 prohibition.

34 (4) No pistol, revolver, or other firearm or imitation thereof
35 capable of being concealed upon the person, or placard
36 advertising the sale or other transfer thereof, shall be displayed in
37 any part of the premises where it can readily be seen from the
38 outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE

1 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
2 DEFECTS, REPRODUCTIVE HARM, AND OTHER
3 SERIOUS PHYSICAL INJURY. HAVE ADEQUATE
4 VENTILATION AT ALL TIMES. WASH HANDS
5 THOROUGHLY AFTER EXPOSURE.”

6 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU
7 DO NOT TAKE PHYSICAL POSSESSION OF THE
8 FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF
9 WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL
10 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE
11 TO GO THROUGH THE BACKGROUND CHECK PROCESS
12 A SECOND TIME IN ORDER TO TAKE PHYSICAL
13 POSSESSION OF THAT FIREARM.”

14 (F) “NO PERSON SHALL MAKE AN APPLICATION TO
15 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR
16 OTHER FIREARM CAPABLE OF BEING CONCEALED
17 UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND
18 NO DELIVERY SHALL BE MADE TO ANY PERSON WHO
19 HAS MADE AN APPLICATION TO PURCHASE MORE
20 THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM
21 CAPABLE OF BEING CONCEALED UPON THE PERSON
22 WITHIN ANY 30-DAY PERIOD.”

23 (8) (A) Commencing April 1, 1994, and until January 1, 2003,
24 no pistol, revolver, or other firearm capable of being concealed
25 upon the person shall be delivered unless the purchaser,
26 transferee, or person being loaned the firearm presents to the
27 dealer a basic firearms safety certificate.

28 (B) Commencing January 1, 2003, no dealer may deliver a
29 handgun unless the person receiving the handgun presents to the
30 dealer a valid handgun safety certificate. The firearms dealer
31 shall retain a photocopy of the handgun safety certificate as proof
32 of compliance with this requirement.

33 (C) Commencing January 1, 2003, no handgun may be
34 delivered unless the purchaser, transferee, or person being loaned
35 the firearm presents documentation indicating that he or she is a
36 California resident. Satisfactory documentation shall include a
37 utility bill from within the last three months, a residential lease, a
38 property deed, or military permanent duty station orders
39 indicating assignment within this state, or other evidence of
40 residency as permitted by the Department of Justice. The

1 firearms dealer shall retain a photocopy of the documentation as
2 proof of compliance with this requirement.

3 (D) Commencing January 1, 2003, except as authorized by the
4 department, no firearms dealer may deliver a handgun unless the
5 recipient performs a safe handling demonstration with that
6 handgun. The demonstration shall commence with the handgun
7 unloaded and locked with the firearm safety device with which it
8 is required to be delivered, if applicable. While maintaining
9 muzzle awareness, that is, the firearm is pointed in a safe
10 direction, preferably down at the ground, and trigger discipline,
11 that is, the trigger finger is outside of the trigger guard and along
12 side of the handgun frame, at all times, the handgun recipient
13 shall correctly and safely perform the following:

14 (i) If the handgun is a semiautomatic pistol:

15 (I) Remove the magazine.

16 (II) Lock the slide back. If the model of firearm does not allow
17 the slide to be locked back, pull the slide back, visually and
18 physically check the chamber to ensure that it is clear.

19 (III) Visually and physically inspect the chamber, to ensure
20 that the handgun is unloaded.

21 (IV) Remove the firearm safety device, if applicable. If the
22 firearm safety device prevents any of the previous steps, remove
23 the firearm safety device during the appropriate step.

24 (V) Load one bright orange, red, or other readily identifiable
25 dummy round into the magazine. If no readily identifiable
26 dummy round is available, an empty cartridge casing with an
27 empty primer pocket may be used.

28 (VI) Insert the magazine into the magazine well of the firearm.

29 (VII) Manipulate the slide release or pull back and release the
30 slide.

31 (VIII) Remove the magazine.

32 (IX) Visually inspect the chamber to reveal that a round can be
33 chambered with the magazine removed.

34 (X) Lock the slide back to eject the bright orange, red, or other
35 readily identifiable dummy round. If the handgun is of a model
36 that does not allow the slide to be locked back, pull the slide back
37 and physically check the chamber to ensure that the chamber is
38 clear. If no readily identifiable dummy round is available, an
39 empty cartridge casing with an empty primer pocket may be
40 used.

1 (XI) Apply the safety, if applicable.

2 (XII) Apply the firearm safety device, if applicable. This
3 requirement shall not apply to an Olympic competition pistol if
4 no firearms safety device, other than a cable lock that the
5 department has determined would damage the barrel of the pistol,
6 has been approved for the pistol, and the pistol is either listed in
7 paragraph (2) of subdivision (h) of Section 12132 or is subject to
8 paragraph (3) of subdivision (h) of Section 12132.

9 (ii) If the handgun is a double-action revolver:

10 (I) Open the cylinder.

11 (II) Visually and physically inspect each chamber, to ensure
12 that the revolver is unloaded.

13 (III) Remove the firearm safety device. If the firearm safety
14 device prevents any of the previous steps, remove the firearm
15 safety device during the appropriate step.

16 (IV) While maintaining muzzle awareness and trigger
17 discipline, load one bright orange, red, or other readily
18 identifiable dummy round into a chamber of the cylinder and
19 rotate the cylinder so that the round is in the next-to-fire position.
20 If no readily identifiable dummy round is available, an empty
21 cartridge casing with an empty primer pocket may be used.

22 (V) Close the cylinder.

23 (VI) Open the cylinder and eject the round.

24 (VII) Visually and physically inspect each chamber to ensure
25 that the revolver is unloaded.

26 (VIII) Apply the firearm safety device, if applicable. This
27 requirement shall not apply to an Olympic competition pistol if
28 no firearms safety device, other than a cable lock that the
29 department has determined would damage the barrel of the pistol,
30 has been approved for the pistol, and the pistol is either listed in
31 paragraph (2) of subdivision (h) of Section 12132 or is subject to
32 paragraph (3) of subdivision (h) of Section 12132.

33 (iii) If the handgun is a single-action revolver:

34 (I) Open the loading gate.

35 (II) Visually and physically inspect each chamber, to ensure
36 that the revolver is unloaded.

37 (III) Remove the firearm safety device required to be sold with
38 the handgun. If the firearm safety device prevents any of the
39 previous steps, remove the firearm safety device during the
40 appropriate step.

1 (IV) Load one bright orange, red, or other readily identifiable
2 dummy round into a chamber of the cylinder, close the loading
3 gate and rotate the cylinder so that the round is in the next-to-fire
4 position. If no readily identifiable dummy round is available, an
5 empty cartridge casing with an empty primer pocket may be
6 used.

7 (V) Open the loading gate and unload the revolver.

8 (VI) Visually and physically inspect each chamber to ensure
9 that the revolver is unloaded.

10 (VII) Apply the firearm safety device, if applicable. This
11 requirement shall not apply to an Olympic competition pistol if
12 no firearms safety device, other than a cable lock that the
13 department has determined would damage the barrel of the pistol,
14 has been approved for the pistol, and the pistol is either listed in
15 paragraph (2) of subdivision (h) of Section 12132 or is subject to
16 paragraph (3) of subdivision (h) of Section 12132.

17 (E) The recipient shall receive instruction regarding how to
18 render that handgun safe in the event of a jam.

19 (F) The firearms dealer shall sign and date an affidavit stating
20 that the requirements of subparagraph (D) have been met. The
21 firearms dealer shall additionally obtain the signature of the
22 handgun purchaser on the same affidavit. The firearms dealer
23 shall retain the original affidavit as proof of compliance with this
24 requirement.

25 (G) The recipient shall perform the safe handling
26 demonstration for a department certified instructor.

27 (H) No demonstration shall be required if the dealer is
28 returning the handgun to the owner of the handgun.

29 (I) Department certified instructors who may administer the
30 safe handling demonstration shall meet the requirements set forth
31 in subdivision (j) of Section 12804.

32 (J) The persons who are exempt from the requirements of
33 subdivision (b) of Section 12801, pursuant to Section 12807, are
34 also exempt from performing the safe handling demonstration.

35 (9) Commencing July 1, 1992, the licensee shall offer to
36 provide the purchaser or transferee of a firearm, or person being
37 loaned a firearm, with a copy of the pamphlet described in
38 Section 12080 and may add the cost of the pamphlet, if any, to
39 the sales price of the firearm.

1 (10) The licensee shall not commit an act of collusion as
2 defined in Section 12072.

3 (11) The licensee shall post conspicuously within the licensed
4 premises a detailed list of each of the following:

5 (A) All charges required by governmental agencies for
6 processing firearm transfers required by Sections 12076, 12082,
7 and 12806.

8 (B) All fees that the licensee charges pursuant to Sections
9 12082 and 12806.

10 (12) The licensee shall not misstate the amount of fees charged
11 by a governmental agency pursuant to Sections 12076, 12082,
12 and 12806.

13 (13) Except as provided in subparagraphs (B) and (C) of
14 paragraph (1) of subdivision (b), all firearms that are in the
15 inventory of the licensee shall be kept within the licensed
16 location. The licensee shall report the loss or theft of any firearm
17 that is merchandise of the licensee, any firearm that the licensee
18 takes possession of pursuant to Section 12082, or any firearm
19 kept at the licensee's place of business within 48 hours of
20 discovery to the appropriate law enforcement agency in the city,
21 county, or city and county where the licensee's business premises
22 are located.

23 (14) Except as provided in subparagraphs (B) and (C) of
24 paragraph (1) of subdivision (b), any time when the licensee is
25 not open for business, all inventory firearms shall be stored in the
26 licensed location. All firearms shall be secured using one of the
27 following methods as to each particular firearm:

28 (A) Store the firearm in a secure facility that is a part of, or
29 that constitutes, the licensee's business premises.

30 (B) Secure the firearm with a hardened steel rod or cable of at
31 least one-eighth inch in diameter through the trigger guard of the
32 firearm. The steel rod or cable shall be secured with a hardened
33 steel lock that has a shackle. The lock and shackle shall be
34 protected or shielded from the use of a bolt cutter and the rod or
35 cable shall be anchored in a manner that prevents the removal of
36 the firearm from the premises.

37 (C) Store the firearm in a locked fireproof safe or vault in the
38 licensee's business premises.

39 (15) The licensing authority in an unincorporated area of a
40 county or within a city may impose security requirements that are

1 more strict or are at a higher standard than those specified in
2 paragraph (14).

3 (16) Commencing January 1, 1994, the licensee shall, upon the
4 issuance or renewal of a license, submit a copy of the same to the
5 Department of Justice.

6 (17) The licensee shall maintain and make available for
7 inspection during business hours to any peace officer, authorized
8 local law enforcement employee, or Department of Justice
9 employee designated by the Attorney General, upon the
10 presentation of proper identification, a firearms transaction
11 record.

12 (18) (A) On the date of receipt, the licensee shall report to the
13 Department of Justice in a format prescribed by the department
14 the acquisition by the licensee of the ownership of a pistol,
15 revolver, or other firearm capable of being concealed upon the
16 person.

17 (B) The provisions of this paragraph shall not apply to any of
18 the following transactions:

19 (i) A transaction subject to the provisions of subdivision (n) of
20 Section 12078.

21 (ii) The dealer acquired the firearm from a wholesaler.

22 (iii) The dealer is also licensed as a secondhand dealer
23 pursuant to Article 4 (commencing with Section 21625) of
24 Chapter 9 of Division 8 of the Business and Professions Code.

25 (iv) The dealer acquired the firearm from a person who is
26 licensed as a manufacturer or importer to engage in those
27 activities pursuant to Chapter 44 (commencing with Section 921)
28 of Title 18 of the United States Code and any regulations issued
29 pursuant thereto.

30 (v) The dealer acquired the firearm from a person who resides
31 outside this state who is licensed pursuant to Chapter 44
32 (commencing with Section 921) of Title 18 of the United States
33 Code and any regulations issued pursuant thereto.

34 (19) The licensee shall forward in a format prescribed by the
35 Department of Justice, information as required by the department
36 on any firearm that is not delivered within the time period set
37 forth in Section 478.102 (c) of Title 27 of the Code of Federal
38 Regulations.

39 (20) (A) Firearms dealers may require any agent who handles,
40 sells, or delivers firearms to obtain and provide to the dealer a

1 certificate of eligibility from the department pursuant to
2 paragraph (4) of subdivision (a). The agent or employee shall
3 provide on the application, the name and California firearms
4 dealer number of the firearms dealer with whom he or she is
5 employed.

6 (B) The department shall notify the firearms dealer in the
7 event that the agent or employee who has a certificate of
8 eligibility is or becomes prohibited from possessing firearms.

9 (C) If the local jurisdiction requires a background check of the
10 agents or employees of the firearms dealer, the agent or
11 employee shall obtain a certificate of eligibility pursuant to
12 subparagraph (A).

13 (D) Nothing in this paragraph shall be construed to preclude a
14 local jurisdiction from conducting an additional background
15 check pursuant to Section 11105 or prohibiting employment
16 based on criminal history that does not appear as part of
17 obtaining a certificate of eligibility, provided however, that the
18 local jurisdiction may not charge a fee for the additional criminal
19 history check.

20 (E) The licensee shall prohibit any agent who the licensee
21 knows or reasonably should know is within a class of persons
22 prohibited from possessing firearms pursuant to Section 12021 or
23 12021.1 of this code, or Section 8100 or 8103 of the Welfare and
24 Institutions Code, from coming into contact with any firearm that
25 is not secured and from accessing any key, combination, code, or
26 other means to open any of the locking devices described in
27 clause (ii) of subparagraph (G) of this paragraph.

28 (F) Nothing in this paragraph shall be construed as preventing
29 a local government from enacting an ordinance imposing
30 additional conditions on licensees with regard to agents.

31 (G) For purposes of this section, the following definitions shall
32 apply:

33 (i) An “agent” is an employee of the licensee.

34 (ii) “Secured” means a firearm that is made inoperable in one
35 or more of the following ways:

36 (I) The firearm is inoperable because it is secured by a
37 firearms safety device listed on the department’s roster of
38 approved firearms safety devices pursuant to subdivision (d) of
39 Section 12088 of this chapter.

1 (II) The firearm is stored in a locked gun safe or long-gun safe
2 which meets the standards for department-approved gun safes set
3 forth in Section 12088.2.

4 (III) The firearm is stored in a distinct locked room or area in
5 the building that is used to store firearms that can only be
6 unlocked by a key, a combination, or similar means.

7 (IV) The firearm is secured with a hardened steel rod or cable
8 that is at least one-eighth of an inch in diameter through the
9 trigger guard of the firearm. The steel rod or cable shall be
10 secured with a hardened steel lock that has a shackle. The lock
11 and shackle shall be protected or shielded from the use of a bolt
12 cutter and the rod or cable shall be anchored in a manner that
13 prevents the removal of the firearm from the premises.

14 (c) (1) As used in this article, “clear evidence of his or her
15 identity and age” means either of the following:

16 (A) A valid California driver’s license.

17 (B) A valid California identification card issued by the
18 Department of Motor Vehicles.

19 (2) As used in this section, a “secure facility” means a building
20 that meets all of the following specifications:

21 (A) All perimeter doorways shall meet one of the following:

22 (i) A windowless steel security door equipped with both a
23 dead bolt and a doorknob lock.

24 (ii) A windowed metal door that is equipped with both a dead
25 bolt and a doorknob lock. If the window has an opening of five
26 inches or more measured in any direction, the window shall be
27 covered with steel bars of at least ½-inch diameter or metal
28 grating of at least 9 gauge affixed to the exterior or interior of the
29 door.

30 (iii) A metal grate that is padlocked and affixed to the
31 licensee’s premises independent of the door and doorframe.

32 (B) All windows are covered with steel bars.

33 (C) Heating, ventilating, air-conditioning, and service
34 openings are secured with steel bars, metal grating, or an alarm
35 system.

36 (D) Any metal grates have spaces no larger than six inches
37 wide measured in any direction.

38 (E) Any metal screens have spaces no larger than three inches
39 wide measured in any direction.

40 (F) All steel bars shall be no further than six inches apart.

1 (3) As used in this section, “licensed premises,” “licensed
2 place of business,” “licensee’s place of business,” or “licensee’s
3 business premises” means the building designated in the license.

4 (4) For purposes of paragraph (17) of subdivision (b):

5 (A) A “firearms transaction record” is a record containing the
6 same information referred to in subdivision (a) of Section
7 478.124, Section 478.124a, and subdivision (e) of Section
8 478.125 of Title 27 of the Code of Federal Regulations.

9 (B) A licensee shall be in compliance with the provisions of
10 paragraph (17) of subdivision (b) if he or she maintains and
11 makes available for inspection during business hours to any
12 peace officer, authorized local law enforcement employee, or
13 Department of Justice employee designated by the Attorney
14 General, upon the presentation of proper identification, the bound
15 book containing the same information referred to in Section
16 478.124a and subdivision (e) of Section 478.125 of Title 27 of
17 the Code of Federal Regulations and the records referred to in
18 subdivision (a) of Section 478.124 of Title 27 of the Code of
19 Federal Regulations.

20 (d) Upon written request from a licensee, the licensing
21 authority may grant an exemption from compliance with the
22 requirements of paragraph (14) of subdivision (b) if the licensee
23 is unable to comply with those requirements because of local
24 ordinances, covenants, lease conditions, or similar circumstances
25 not under the control of the licensee.

26 (e) (1) Except as otherwise provided in this paragraph, the
27 Department of Justice shall keep a centralized list of all persons
28 licensed pursuant to subparagraphs (A) to (E), inclusive, of
29 paragraph (1) of subdivision (a), ~~and all persons who have~~
30 ~~submitted information pursuant to subdivision (a) of Section~~
31 ~~42083~~. The department may remove from this list any person
32 who knowingly or with gross negligence violates this article.
33 Upon removal of a dealer from this list, notification shall be
34 provided to local law enforcement and licensing authorities in the
35 jurisdiction where the dealer’s business is located.

36 (2) The department shall remove from the centralized list any
37 person whose federal firearms license has expired or has been
38 revoked.

39 (3) Information compiled from the list shall be made available,
40 upon request, for the following purposes only:

1 (A) For law enforcement purposes.

2 (B) When the information is requested by a person licensed
3 pursuant to Chapter 44 (commencing with Section 921) of Title
4 18 of the United States Code for determining the validity of the
5 license for firearm shipments.

6 (C) When information is requested by a person promoting,
7 sponsoring, operating, or otherwise organizing a show or event as
8 defined in Section 478.100 of Title 27 of the Code of Federal
9 Regulations, or its successor, who possesses a valid certificate of
10 eligibility issued pursuant to Section 12071.1, if that information
11 is requested by the person to determine the eligibility of a
12 prospective participant in a gun show or event to conduct
13 transactions as a firearms dealer pursuant to subparagraph (B) of
14 paragraph (1) of subdivision (b).

15 (4) Information provided pursuant to paragraph (3) shall be
16 limited to information necessary to corroborate an individual's
17 current license status as being one of the following:

18 (A) A person licensed pursuant to subparagraphs (A) to (E),
19 inclusive, of paragraph (1) of subdivision (a).

20 (B) A person licensed pursuant to Chapter 44 (commencing
21 with Section 921) of Title 18 of the United States Code and who
22 is not subject to the requirement that he or she be licensed
23 pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1)
24 of subdivision (a).

25 (f) The Department of Justice may inspect dealers to ensure
26 compliance with this article. The department may assess an
27 annual fee, not to exceed one hundred fifteen dollars (\$115), to
28 cover the reasonable cost of maintaining the list described in
29 subdivision (e), including the cost of inspections. Dealers whose
30 place of business is in a jurisdiction that has adopted an
31 inspection program to ensure compliance with firearms law shall
32 be exempt from that portion of the department's fee that relates
33 to the cost of inspections. The applicant is responsible for
34 providing evidence to the department that the jurisdiction in
35 which the business is located has the inspection program.

36 (g) The Department of Justice shall maintain and make
37 available upon request information concerning the number of
38 inspections conducted and the amount of fees collected pursuant
39 to subdivision (f), a listing of exempted jurisdictions, as defined
40 in subdivision (f), the number of dealers removed from the

1 centralized list defined in subdivision (e), and the number of
2 dealers found to have violated this article with knowledge or
3 gross negligence.

4 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to
5 a licensee organized as a nonprofit public benefit or mutual
6 benefit corporation organized pursuant to Part 2 (commencing
7 with Section 5110) or Part 3 (commencing with Section 7110) of
8 Division 2 of the Corporations Code, if both of the following
9 conditions are satisfied:

10 (1) The nonprofit public benefit or mutual benefit corporation
11 obtained the dealer's license solely and exclusively to assist that
12 corporation or local chapters of that corporation in conducting
13 auctions or similar events at which firearms are auctioned off to
14 fund the activities of that corporation or the local chapters of the
15 corporation.

16 (2) The firearms are not pistols, revolvers, or other firearms
17 capable of being concealed upon the person.

18 ~~(i) (1) For every verification inquiry made pursuant to~~
19 ~~paragraph (1) of subdivision (f) of Section 12072, the department~~
20 ~~shall determine whether the intended recipient possesses an~~
21 ~~appropriate, valid license issued pursuant to Chapter 44~~
22 ~~(commencing with Section 921) of Title 18 of the United States~~
23 ~~Code and, if applicable, is properly licensed pursuant to this~~
24 ~~section.~~

25 ~~(2) If the intended recipient possesses an appropriate, valid~~
26 ~~license issued pursuant to Chapter 44 (commencing with Section~~
27 ~~921) of Title 18 of the United States Code, and if applicable, is~~
28 ~~properly licensed pursuant to this section, the department shall~~
29 ~~immediately provide a unique verification number to the~~
30 ~~inquiring party.~~

31 ~~(3) If the intended recipient does not possess an appropriate,~~
32 ~~valid license issued pursuant to Chapter 44 (commencing with~~
33 ~~Section 921) of Title 18 of the United States Code, or if~~
34 ~~applicable, is not properly licensed pursuant to this section, the~~
35 ~~department shall do all of the following:~~

36 ~~(A) Immediately notify the inquiring party of that fact.~~

37 ~~(B) Within 24 hours, notify the chief law enforcement officer~~
38 ~~of the jurisdiction where the address on the federal firearms~~
39 ~~license about which the inquiry was made is located, and notify~~

1 ~~an appropriate employee of the federal Bureau of Alcohol,~~
2 ~~Tobacco and Firearms of the denied verification.~~

3 SEC. 2. Section 12072 of the Penal Code is amended to read:

4 12072. (a) (1) No person, corporation, or firm shall
5 knowingly supply, deliver, sell, or give possession or control of a
6 firearm to any person within any of the classes prohibited by
7 Section 12021 or 12021.1.

8 (2) No person, corporation, or dealer shall sell, supply, deliver,
9 or give possession or control of a firearm to any person whom he
10 or she has cause to believe to be within any of the classes
11 prohibited by Section 12021 or 12021.1 of this code or Section
12 8100 or 8103 of the Welfare and Institutions Code.

13 (3) (A) No person, corporation, or firm shall sell, loan, or
14 transfer a firearm to a minor, nor sell a handgun to an individual
15 under 21 years of age.

16 (B) Subparagraph (A) shall not apply to or affect those
17 circumstances set forth in subdivision (p) of Section 12078.

18 (4) No person, corporation, or dealer shall sell, loan, or
19 transfer a firearm to any person whom he or she knows or has
20 cause to believe is not the actual purchaser or transferee of the
21 firearm, or to any person who is not the person actually being
22 loaned the firearm, if the person, corporation, or dealer has either
23 of the following:

24 (A) Knowledge that the firearm is to be subsequently loaned,
25 sold, or transferred to avoid the provisions of subdivision (c) or
26 (d).

27 (B) Knowledge that the firearm is to be subsequently loaned,
28 sold, or transferred to avoid the requirements of any exemption to
29 the provisions of subdivision (c) or (d).

30 (5) No person, corporation, or dealer shall acquire a firearm
31 for the purpose of selling, transferring, or loaning the firearm, if
32 the person, corporation, or dealer has either of the following:

33 (A) In the case of a dealer, intent to violate subdivision (b) or
34 (c).

35 (B) In any other case, intent to avoid either of the following:

36 (i) The provisions of subdivision (d).

37 (ii) The requirements of any exemption to the provisions of
38 subdivision (d).

39 (6) The dealer shall comply with the provisions of paragraph
40 (18) of subdivision (b) of Section 12071.

1 (7) The dealer shall comply with the provisions of paragraph
2 (19) of subdivision (b) of Section 12071.

3 (8) No person shall sell or otherwise transfer his or her
4 ownership in a pistol, revolver, or other firearm capable of being
5 concealed upon the person unless the firearm bears either:

6 (A) The name of the manufacturer, the manufacturer's make
7 or model, and a manufacturer's serial number assigned to that
8 firearm.

9 (B) The identification number or mark assigned to the firearm
10 by the Department of Justice pursuant to Section 12092.

11 (9) (A) No person shall make an application to purchase more
12 than one pistol, revolver, or other firearm capable of being
13 concealed upon the person within any 30-day period.

14 (B) Subparagraph (A) shall not apply to any of the following:

15 (i) Any law enforcement agency.

16 (ii) Any agency duly authorized to perform law enforcement
17 duties.

18 (iii) Any state or local correctional facility.

19 (iv) Any private security company licensed to do business in
20 California.

21 (v) Any person who is properly identified as a full-time paid
22 peace officer, as defined in Chapter 4.5 (commencing with
23 Section 830) of Title 3 of Part 2, and who is authorized to, and
24 does carry a firearm during the course and scope of his or her
25 employment as a peace officer.

26 (vi) Any motion picture, television, or video production
27 company or entertainment or theatrical company whose
28 production by its nature involves the use of a firearm.

29 (vii) Any person who may, pursuant to Section 12078, claim
30 an exemption from the waiting period set forth in subdivision (c)
31 of this section.

32 (viii) Any transaction conducted through a licensed firearms
33 dealer pursuant to Section 12082.

34 (ix) Any person who is licensed as a collector pursuant to
35 Chapter 44 (commencing with Section 921) of Title 18 of the
36 United States Code and the regulations issued pursuant thereto
37 and who has a current certificate of eligibility issued to him or
38 her by the Department of Justice pursuant to Section 12071.

39 (x) The exchange of a pistol, revolver, or other firearm capable
40 of being concealed upon the person where the dealer purchased

1 that firearm from the person seeking the exchange within the
2 30-day period immediately preceding the date of exchange or
3 replacement.

4 (xi) The replacement of a pistol, revolver, or other firearm
5 capable of being concealed upon the person when the person's
6 pistol, revolver, or other firearm capable of being concealed upon
7 the person was lost or stolen, and the person reported that firearm
8 lost or stolen prior to the completion of the application to
9 purchase to any local law enforcement agency of the city, county,
10 or city and county in which he or she resides.

11 (xii) The return of any pistol, revolver, or other firearm
12 capable of being concealed upon the person to its owner.

13 (b) No person licensed under Section 12071 shall supply, sell,
14 deliver, or give possession or control of a pistol, revolver, or
15 firearm capable of being concealed upon the person to any
16 person under the age of 21 years or any other firearm to a person
17 under the age of 18 years.

18 (c) No dealer, whether or not acting pursuant to Section
19 12082, shall deliver a firearm to a person, as follows:

20 (1) Within 10 days of the application to purchase, or, after
21 notice by the department pursuant to subdivision (d) of Section
22 12076, within 10 days of the submission to the department of any
23 correction to the application, or within 10 days of the submission
24 to the department of any fee required pursuant to subdivision (e)
25 of Section 12076, whichever is later.

26 (2) Unless unloaded and securely wrapped or unloaded and in
27 a locked container.

28 (3) Unless the purchaser, transferee, or person being loaned
29 the firearm presents clear evidence of his or her identity and age,
30 as defined in Section 12071, to the dealer.

31 (4) Whenever the dealer is notified by the Department of
32 Justice that the person is in a prohibited class described in
33 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
34 the Welfare and Institutions Code.

35 (5) (A) Commencing April 1, 1994, and until January 1, 2003,
36 no pistol, revolver, or other firearm capable of being concealed
37 upon the person shall be delivered unless the purchaser,
38 transferee, or person being loaned the firearm presents to the
39 dealer a basic firearms safety certificate.

1 (B) Commencing January 1, 2003, no handgun shall be
2 delivered unless the purchaser, transferee, or person being loaned
3 the handgun presents a handgun safety certificate to the dealer.

4 (6) No pistol, revolver, or other firearm capable of being
5 concealed upon the person shall be delivered whenever the dealer
6 is notified by the Department of Justice that within the preceding
7 30-day period the purchaser has made another application to
8 purchase a pistol, revolver, or other firearm capable of being
9 concealed upon the person and that the previous application to
10 purchase involved none of the entities specified in subparagraph
11 (B) of paragraph (9) of subdivision (a).

12 (d) Where neither party to the transaction holds a dealer's
13 license issued pursuant to Section 12071, the parties to the
14 transaction shall complete the sale, loan, or transfer of that
15 firearm through a licensed firearms dealer pursuant to Section
16 12082.

17 (e) No person may commit an act of collusion relating to
18 Article 8 (commencing with Section 12800) of Chapter 6. For
19 purposes of this section and Section 12071, collusion may be
20 proven by any one of the following factors:

21 (1) Answering a test applicant's questions during an objective
22 test relating to firearms safety.

23 (2) Knowingly grading the examination falsely.

24 (3) Providing an advance copy of the test to an applicant.

25 (4) Taking or allowing another person to take the basic
26 firearms safety course for one who is the applicant for a basic
27 firearms safety certificate or a handgun safety certificate.

28 (5) Allowing another to take the objective test for the
29 applicant, purchaser, or transferee.

30 (6) Using or allowing another to use one's identification, proof
31 of residency, or thumbprint.

32 (7) Allowing others to give unauthorized assistance during the
33 examination.

34 (8) Reference to unauthorized materials during the
35 examination and cheating by the applicant.

36 (9) Providing originals or photocopies of the objective test, or
37 any version thereof, to any person other than as authorized by the
38 department.

39 (f) (1) ~~No~~(A) *Commencing July 1, 2008, a person who is*
40 *licensed pursuant to Chapter 44 (commencing with Section 921)*

1 of Title 18 of the United States Code ~~shall~~ *may not* deliver, sell,
2 or transfer a firearm to a person who is licensed pursuant to
3 Chapter 44 (commencing with Section 921) of Title 18 of the
4 United States Code ~~and whose licensed premises are located in~~
5 ~~this state unless:~~

6 ~~(A) Prior to January 1, 2005, the intended recipient does one~~
7 ~~of the following:~~

8 ~~(i) Presents proof of licensure pursuant to Section 12071 to~~
9 ~~that person.~~

10 ~~(ii) Presents proof that he or she is exempt from licensure~~
11 ~~under Section 12071 to that person, in which case the person also~~
12 ~~shall present proof that the transaction is also exempt from the~~
13 ~~provisions of subdivision (d).~~

14 ~~(B) Commencing January 1, 2005, one of the following is~~
15 ~~satisfied:~~

16 ~~(i) The person intending to deliver, sell, or transfer the~~
17 ~~firearms obtains from the department, prior to delivery, a unique~~
18 ~~verification number pursuant to Section 12071 unless, prior to~~
19 ~~delivery, the person intending to deliver, sell, or transfer the~~
20 ~~firearm obtains a verification number via the Internet for the~~
21 ~~intended delivery, sale or transfer, from the department. If~~
22 ~~Internet service is unavailable to either the department or the~~
23 ~~licensee due to a technical or other malfunction, or a federal~~
24 ~~firearms licensee who is located outside of California does not~~
25 ~~possess a computer or have Internet access, alternate means of~~
26 ~~communication, including facsimile or telephone, shall be made~~
27 ~~available for a licensee to obtain a verification number in order~~
28 ~~to comply with this section. This subdivision shall not apply to~~
29 ~~the delivery, sale, or transfer of a short-barreled rifle, or~~
30 ~~short-barreled shotgun, as defined in Section 12020, or to a~~
31 ~~machinegun as defined in Section 12200, or to an assault weapon~~
32 ~~as defined in Sections 12276, 12276.1, and 12276.5.~~

33 ~~(B) For every identification number request received pursuant~~
34 ~~to this section, the department shall determine whether the~~
35 ~~intended recipient is on the centralized list of firearms dealers~~
36 ~~pursuant to this section, or pursuant to the centralized list of~~
37 ~~exempted federal firearms licensees pursuant to subdivision (a)~~
38 ~~of Section 12083, or the centralized list of firearms~~
39 ~~manufacturers pursuant to subdivision (f) of Section 12086.~~

1 (C) If the department finds that the intended recipient is on
2 one of these lists, the department shall issue to the inquiring
3 party, a unique identification number for the intended delivery,
4 sale, or transfer. In addition to the unique verification number,
5 the department may provide to the inquiring party information
6 necessary for determining the eligibility of the intended recipient
7 to receive the firearm. The person intending to deliver, sell, or
8 transfer ~~firearms~~ the firearm shall provide the unique verification
9 number to the recipient along with the ~~firearms~~ firearm upon
10 delivery, in a manner to be determined by the department.

11 (ii) The intended recipient presents proof that he or she is
12 exempt from licensure under Section 12071 to that person, in
13 which case the person also shall present proof that the transaction
14 is also exempt from the provisions of subdivision (d).

15 (D) If the department finds that the intended recipient is not on
16 one of these lists, the department shall notify the inquiring party
17 that the intended recipient is ineligible to receive the firearm.

18 (E) The department shall prescribe the manner in which the
19 verification numbers may be requested via the Internet, or by
20 alternate means of communication, such as by facsimile or
21 telephone, including all required enrollment information and
22 procedures.

23 (2) (A) On or after January 1, 1998, within 60 days of bringing
24 a pistol, revolver, or other firearm capable of being concealed
25 upon the person into this state, a personal handgun importer shall
26 do one of the following:

27 (i) Forward by prepaid mail or deliver in person to the
28 Department of Justice, a report prescribed by the department
29 including information concerning that individual and a
30 description of the firearm in question.

31 (ii) Sell or transfer the firearm in accordance with the
32 provisions of subdivision (d) or in accordance with the provisions
33 of an exemption from subdivision (d).

34 (iii) Sell or transfer the firearm to a dealer licensed pursuant to
35 Section 12071.

36 (iv) Sell or transfer the firearm to a sheriff or police
37 department.

38 (B) If the personal handgun importer sells or transfers the
39 pistol, revolver, or other firearm capable of being concealed upon
40 the person pursuant to subdivision (d) of Section 12072 and the

1 sale or transfer cannot be completed by the dealer to the
2 purchaser or transferee, and the firearm can be returned to the
3 personal handgun importer, the personal handgun importer shall
4 have complied with the provisions of this paragraph.

5 (C) The provisions of this paragraph are cumulative and shall
6 not be construed as restricting the application of any other law.
7 However, an act or omission punishable in different ways by this
8 section and different provisions of the Penal Code shall not be
9 punished under more than one provision.

10 (D) (i) On and after January 1, 1998, the department shall
11 conduct a public education and notification program regarding
12 this paragraph to ensure a high degree of publicity of the
13 provisions of this paragraph.

14 (ii) As part of the public education and notification program
15 described in this subparagraph, the department shall do all of the
16 following:

17 (I) Work in conjunction with the Department of Motor
18 Vehicles to ensure that any person who is subject to this
19 paragraph is advised of the provisions of this paragraph, and
20 provided with blank copies of the report described in clause (i) of
21 subparagraph (A) at the time that person applies for a California
22 driver's license or registers his or her motor vehicle in
23 accordance with the Vehicle Code.

24 (II) Make the reports referred to in clause (i) of subparagraph
25 (A) available to dealers licensed pursuant to Section 12071.

26 (III) Make the reports referred to in clause (i) of subparagraph
27 (A) available to law enforcement agencies.

28 (IV) Make persons subject to the provisions of this paragraph
29 aware of the fact that reports referred to in clause (i) of
30 subparagraph (A) may be completed at either the licensed
31 premises of dealers licensed pursuant to Section 12071 or at law
32 enforcement agencies, that it is advisable to do so for the sake of
33 accuracy and completeness of the reports, that prior to
34 transporting a pistol, revolver, or other firearm capable of being
35 concealed upon the person to a law enforcement agency in order
36 to comply with subparagraph (A), the person should give prior
37 notice to the law enforcement agency that he or she is doing so,
38 and that in any event, the pistol, revolver, or other firearm
39 capable of being concealed upon the person should be
40 transported unloaded and in a locked container.

1 (iii) Any costs incurred by the department to implement this
2 paragraph shall be absorbed by the department within its existing
3 budget and the fees in the Dealers' Record of Sale Special
4 Account allocated for implementation of this subparagraph
5 pursuant to Section 12076.

6 (3) Where a person who is licensed as a collector pursuant to
7 Chapter 44 (commencing with Section 921) of Title 18 of the
8 United States Code and the regulations issued pursuant thereto,
9 whose licensed premises are within this state, acquires a pistol,
10 revolver, or other firearm capable of being concealed upon the
11 person that is a curio or relic, as defined in Section 478.11 of
12 Title 27 of the Code of Federal Regulations, outside of this state,
13 takes actual possession of that firearm outside of this state
14 pursuant to the provisions of subsection (j) of Section 923 of
15 Title 18 of the United States Code, as amended by Public Law
16 104-208, and transports that firearm into this state, within five
17 days of that licensed collector transporting that firearm into this
18 state, he or she shall report to the department in a format
19 prescribed by the department his or her acquisition of that
20 firearm.

21 (4) (A) It is the intent of the Legislature that a violation of
22 paragraph (2) or (3) shall not constitute a "continuing offense"
23 and the statute of limitations for commencing a prosecution for a
24 violation of paragraph (2) or (3) commences on the date that the
25 applicable grace period specified in paragraph (2) or (3) expires.

26 (B) Paragraphs (2) and (3) shall not apply to a person who
27 reports his or her ownership of a pistol, revolver, or other firearm
28 capable of being concealed upon the person after the applicable
29 grace period specified in paragraph (2) or (3) expires if evidence
30 of that violation arises only as the result of the person submitting
31 the report described in paragraph (2) or (3).

32 (g) (1) Except as provided in paragraph (2), (3), or (5), a
33 violation of this section is a misdemeanor.

34 (2) If any of the following circumstances apply, a violation of
35 this section is punishable by imprisonment in the state prison for
36 two, three, or four years.

37 (A) If the violation is of paragraph (1) of subdivision (a).

38 (B) If the defendant has a prior conviction of violating the
39 provisions, other than paragraph (9) of subdivision (a), of this

1 section or former Section 12100 of this code or Section 8101 of
2 the Welfare and Institutions Code.

3 (C) If the defendant has a prior conviction of violating any
4 offense specified in subdivision (b) of Section 12021.1 or of a
5 violation of Section 12020, 12220, or 12520, or of former
6 Section 12560.

7 (D) If the defendant is in a prohibited class described in
8 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
9 the Welfare and Institutions Code.

10 (E) A violation of this section by a person who actively
11 participates in a “criminal street gang” as defined in Section
12 186.22.

13 (F) A violation of subdivision (b) involving the delivery of any
14 firearm to a person who the dealer knows, or should know, is a
15 minor.

16 (3) If any of the following circumstances apply, a violation of
17 this section shall be punished by imprisonment in a county jail
18 not exceeding one year or in the state prison, or by a fine not to
19 exceed one thousand dollars (\$1,000), or by both that fine and
20 imprisonment.

21 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

22 (B) A violation of paragraph (3) of subdivision (a) involving
23 the sale, loan, or transfer of a pistol, revolver, or other firearm
24 capable of being concealed upon the person to a minor.

25 (C) A violation of subdivision (b) involving the delivery of a
26 pistol, revolver, or other firearm capable of being concealed upon
27 the person.

28 (D) A violation of paragraph (1), (3), (4), (5), or (6) of
29 subdivision (c) involving a pistol, revolver, or other firearm
30 capable of being concealed upon the person.

31 (E) A violation of subdivision (d) involving a pistol, revolver,
32 or other firearm capable of being concealed upon the person.

33 (F) A violation of subdivision (e).

34 (4) If both of the following circumstances apply, an additional
35 term of imprisonment in the state prison for one, two, or three
36 years shall be imposed in addition and consecutive to the
37 sentence prescribed.

38 (A) A violation of paragraph (2) of subdivision (a) or
39 subdivision (b).

1 (B) The firearm transferred in violation of paragraph (2) of
2 subdivision (a) or subdivision (b) is used in the subsequent
3 commission of a felony for which a conviction is obtained and
4 the prescribed sentence is imposed.

5 (5) (A) A first violation of paragraph (9) of subdivision (a) is
6 an infraction punishable by a fine of fifty dollars (\$50).

7 (B) A second violation of paragraph (9) of subdivision (a) is
8 an infraction punishable by a fine of one hundred dollars (\$100).

9 (C) A third or subsequent violation of paragraph (9) of
10 subdivision (a) is a misdemeanor.

11 (D) For purposes of this paragraph each application to
12 purchase a pistol, revolver, or other firearm capable of being
13 concealed upon the person in violation of paragraph (9) of
14 subdivision (a) shall be deemed a separate offense.

15 SEC. 3. Section 12076 of the Penal Code is amended to read:

16 12076. (a) (1) Before January 1, 1998, the Department of
17 Justice shall determine the method by which a dealer shall submit
18 firearm purchaser information to the department and the
19 information shall be in one of the following formats:

20 (A) Submission of the register described in Section 12077.

21 (B) Electronic or telephonic transfer of the information
22 contained in the register described in Section 12077.

23 (2) On or after January 1, 1998, electronic or telephonic
24 transfer, including voice or facsimile transmission, shall be the
25 exclusive means by which purchaser information is transmitted
26 to the department.

27 (3) On or after January 1, 2003, except as permitted by the
28 department, electronic transfer shall be the exclusive means by
29 which information is transmitted to the department. Telephonic
30 transfer shall not be permitted for information regarding sales of
31 any firearms.

32 (b) (1) Where the register is used, the purchaser of any
33 firearm shall be required to present clear evidence of his or her
34 identity and age, as defined in Section 12071, to the dealer, and
35 the dealer shall require him or her to sign his or her current legal
36 name and affix his or her residence address and date of birth to
37 the register in quadruplicate. The salesperson shall affix his or
38 her signature to the register in quadruplicate as a witness to the
39 signature and identification of the purchaser. Any person
40 furnishing a fictitious name or address or knowingly furnishing

1 any incorrect information or knowingly omitting any information
2 required to be provided for the register and any person violating
3 any provision of this section is guilty of a misdemeanor.

4 (2) The original of the register shall be retained by the dealer
5 in consecutive order. Each book of 50 originals shall become the
6 permanent register of transactions that shall be retained for not
7 less than three years from the date of the last transaction and
8 shall be available for the inspection of any peace officer,
9 Department of Justice employee designated by the Attorney
10 General, or agent of the federal Bureau of Alcohol, Tobacco,
11 Firearms, and Explosives upon the presentation of proper
12 identification, but no information shall be compiled therefrom
13 regarding the purchasers or other transferees of firearms that are
14 not pistols, revolvers, or other firearms capable of being
15 concealed upon the person.

16 (3) Two copies of the original sheet of the register, on the date
17 of the application to purchase, shall be placed in the mail,
18 postage prepaid, and properly addressed to the Department of
19 Justice in Sacramento.

20 (4) If requested, a photocopy of the original shall be provided
21 to the purchaser by the dealer.

22 (5) If the transaction is one conducted pursuant to Section
23 12082, a photocopy of the original shall be provided to the seller
24 by the dealer, upon request.

25 (c) (1) Where the electronic or telephonic transfer of applicant
26 information is used, the purchaser shall be required to present
27 clear evidence of his or her identity and age, as defined in
28 Section 12071, to the dealer, and the dealer shall require him or
29 her to sign his or her current legal name to the record of
30 electronic or telephonic transfer. The salesperson shall affix his
31 or her signature to the record of electronic or telephonic transfer
32 as a witness to the signature and identification of the purchaser.
33 Any person furnishing a fictitious name or address or knowingly
34 furnishing any incorrect information or knowingly omitting any
35 information required to be provided for the electronic or
36 telephonic transfer and any person violating any provision of this
37 section is guilty of a misdemeanor.

38 (2) The record of applicant information shall be transmitted to
39 the Department of Justice in Sacramento by electronic or
40 telephonic transfer on the date of the application to purchase.

1 (3) The original of each record of electronic or telephonic
2 transfer shall be retained by the dealer in consecutive order. Each
3 original shall become the permanent record of the transaction that
4 shall be retained for not less than three years from the date of the
5 last transaction and shall be provided for the inspection of any
6 peace officer, Department of Justice employee designated by the
7 Attorney General, or agent of the federal Bureau of Alcohol,
8 Tobacco, Firearms, and Explosives upon the presentation of
9 proper identification, but no information shall be compiled
10 therefrom regarding the purchasers or other transferees of
11 firearms that are not pistols, revolvers, or other firearms capable
12 of being concealed upon the person.

13 (4) If requested, a copy of the record of electronic or
14 telephonic transfer shall be provided to the purchaser by the
15 dealer.

16 (5) If the transaction is one conducted pursuant to Section
17 12082, a copy shall be provided to the seller by the dealer, upon
18 request.

19 (d) (1) The department shall examine its records, as well as
20 those records that it is authorized to request from the State
21 Department of Mental Health pursuant to Section 8104 of the
22 Welfare and Institutions Code, in order to determine if the
23 purchaser is a person described in Section 12021, 12021.1, or
24 subparagraph (A) of paragraph (9) of subdivision (a) of Section
25 12072 of this code or Section 8100 or 8103 of the Welfare and
26 Institutions Code.

27 (2) To the extent that funding is available, the Department of
28 Justice may participate in the National Instant Criminal
29 Background Check System (NICS), as described in subsection (t)
30 of Section 922 of Title 18 of the United States Code, and, if that
31 participation is implemented, shall notify the dealer and the chief
32 of the police department of the city or city and county in which
33 the sale was made, or if the sale was made in a district in which
34 there is no municipal police department, the sheriff of the county
35 in which the sale was made, that the purchaser is a person
36 prohibited from acquiring a firearm under federal law.

37 (3) If the department determines that the purchaser is a person
38 described in Section 12021, 12021.1, or subparagraph (A) of
39 paragraph (9) of subdivision (a) of Section 12072 of this code or
40 Section 8100 or 8103 of the Welfare and Institutions Code, it

1 shall immediately notify the dealer and the chief of the police
2 department of the city or city and county in which the sale was
3 made, or if the sale was made in a district in which there is no
4 municipal police department, the sheriff of the county in which
5 the sale was made, of that fact.

6 (4) If the department determines that the copies of the register
7 submitted to it pursuant to paragraph (3) of subdivision (b)
8 contain any blank spaces or inaccurate, illegible, or incomplete
9 information, preventing identification of the purchaser or the
10 pistol, revolver, or other firearm to be purchased, or if any fee
11 required pursuant to subdivision (e) is not submitted by the
12 dealer in conjunction with submission of copies of the register,
13 the department may notify the dealer of that fact. Upon
14 notification by the department, the dealer shall submit corrected
15 copies of the register to the department, or shall submit any fee
16 required pursuant to subdivision (e), or both, as appropriate and,
17 if notification by the department is received by the dealer at any
18 time prior to delivery of the firearm to be purchased, the dealer
19 shall withhold delivery until the conclusion of the waiting period
20 described in Sections 12071 and 12072.

21 (5) If the department determines that the information
22 transmitted to it pursuant to subdivision (c) contains inaccurate or
23 incomplete information preventing identification of the purchaser
24 or the pistol, revolver, or other firearm capable of being
25 concealed upon the person to be purchased, or if the fee required
26 pursuant to subdivision (e) is not transmitted by the dealer in
27 conjunction with transmission of the electronic or telephonic
28 record, the department may notify the dealer of that fact. Upon
29 notification by the department, the dealer shall transmit
30 corrections to the record of electronic or telephonic transfer to
31 the department, or shall transmit any fee required pursuant to
32 subdivision (e), or both, as appropriate, and if notification by the
33 department is received by the dealer at any time prior to delivery
34 of the firearm to be purchased, the dealer shall withhold delivery
35 until the conclusion of the waiting period described in Sections
36 12071 and 12072.

37 (e) The Department of Justice may require the dealer to charge
38 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
39 except that the fee may be increased at a rate not to exceed any
40 increase in the California Consumer Price Index as compiled and

1 reported by the California Department of Industrial Relations.

2 The fee shall be no more than is necessary to fund the following:

3 (1) (A) The department for the cost of furnishing this
4 information.

5 (B) The department for the cost of meeting its obligations
6 under paragraph (2) of subdivision (b) of Section 8100 of the
7 Welfare and Institutions Code.

8 (2) Local mental health facilities for state-mandated local costs
9 resulting from the reporting requirements imposed by Section
10 8103 of the Welfare and Institutions Code.

11 (3) The State Department of Mental Health for the costs
12 resulting from the requirements imposed by Section 8104 of the
13 Welfare and Institutions Code.

14 (4) Local mental hospitals, sanitariums, and institutions for
15 state-mandated local costs resulting from the reporting
16 requirements imposed by Section 8105 of the Welfare and
17 Institutions Code.

18 (5) Local law enforcement agencies for state-mandated local
19 costs resulting from the notification requirements set forth in
20 subdivision (a) of Section 6385 of the Family Code.

21 (6) Local law enforcement agencies for state-mandated local
22 costs resulting from the notification requirements set forth in
23 subdivision (c) of Section 8105 of the Welfare and Institutions
24 Code.

25 (7) For the actual costs associated with the electronic or
26 telephonic transfer of information pursuant to subdivision (c).

27 (8) The Department of Food and Agriculture for the costs
28 resulting from the notification provisions set forth in Section
29 5343.5 of the Food and Agricultural Code.

30 (9) The department for the costs associated with subparagraph
31 (D) of paragraph (2) of subdivision (f) of Section 12072.

32 (10) The department for the costs associated with funding
33 Department of Justice firearms-related regulatory and
34 enforcement activities related to the sale, purchase, loan, or
35 transfer of firearms pursuant to this chapter.

36 The fee established pursuant to this subdivision shall not
37 exceed the sum of the actual processing costs of the department,
38 the estimated reasonable costs of the local mental health facilities
39 for complying with the reporting requirements imposed by
40 paragraph (2) of this subdivision, the costs of the State

1 Department of Mental Health for complying with the
2 requirements imposed by paragraph (3) of this subdivision, the
3 estimated reasonable costs of local mental hospitals, sanitariums,
4 and institutions for complying with the reporting requirements
5 imposed by paragraph (4) of this subdivision, the estimated
6 reasonable costs of local law enforcement agencies for
7 complying with the notification requirements set forth in
8 subdivision (a) of Section 6385 of the Family Code, the
9 estimated reasonable costs of local law enforcement agencies for
10 complying with the notification requirements set forth in
11 subdivision (c) of Section 8105 of the Welfare and Institutions
12 Code imposed by paragraph (6) of this subdivision, the estimated
13 reasonable costs of the Department of Food and Agriculture for
14 the costs resulting from the notification provisions set forth in
15 Section 5343.5 of the Food and Agricultural Code, the estimated
16 reasonable costs of the department for the costs associated with
17 subparagraph (D) of paragraph (2) of subdivision (f) of Section
18 12072, and the estimated reasonable costs of department
19 firearms-related regulatory and enforcement activities related to
20 the sale, purchase, loan, or transfer of firearms pursuant to this
21 chapter.

22 (f) (1) The Department of Justice may charge a fee sufficient
23 to reimburse it for each of the following but not to exceed
24 fourteen dollars (\$14), except that the fee may be increased at a
25 rate not to exceed any increase in the California Consumer Price
26 Index as compiled and reported by the California Department of
27 Industrial Relations:

28 (A) For the actual costs associated with the preparation, sale,
29 processing, and filing of forms or reports required or utilized
30 pursuant to Section 12078.

31 (B) For the actual processing costs associated with the
32 submission of a Dealers' Record of Sale to the department.

33 (C) For the actual costs associated with the preparation, sale,
34 processing, and filing of reports utilized pursuant to subdivision
35 (l) of Section 12078 or paragraph (18) of subdivision (b) of
36 Section 12071, or clause (i) of subparagraph (A) of paragraph (2)
37 of subdivision (f) of Section 12072, or paragraph (3) of
38 subdivision (f) of Section 12072.

39 (D) For the actual costs associated with the electronic or
40 telephonic transfer of information pursuant to subdivision (c).

1 (2) If the department charges a fee pursuant to subparagraph
2 (B) of paragraph (1) of this subdivision, it shall be charged in the
3 same amount to all categories of transaction that are within that
4 subparagraph.

5 (3) Any costs incurred by the Department of Justice to
6 implement this subdivision shall be reimbursed from fees
7 collected and charged pursuant to this subdivision. No fees shall
8 be charged to the dealer pursuant to subdivision (e) for
9 implementing this subdivision.

10 (g) All money received by the department pursuant to this
11 section shall be deposited in the Dealers' Record of Sale Special
12 Account of the General Fund, which is hereby created, to be
13 available, upon appropriation by the Legislature, for expenditure
14 by the department to offset the costs incurred pursuant to this
15 section, ~~paragraph (1) and subparagraph (D) of paragraph (2) of~~
16 ~~subdivision (f) of Section Sections 12072, Sections 12083, and~~
17 ~~12099, subdivision (c) of Section 12131, Sections 12234, 12289,~~
18 ~~and 12289.5, and subdivisions (f) and (g) of Section 12305.~~

19 (h) Where the electronic or telephonic transfer of applicant
20 information is used, the department shall establish a system to be
21 used for the submission of the fees described in subdivision (e) to
22 the department.

23 (i) (1) Only one fee shall be charged pursuant to this section
24 for a single transaction on the same date for the sale of any
25 number of firearms that are not pistols, revolvers, or other
26 firearms capable of being concealed upon the person or for the
27 taking of possession of those firearms.

28 (2) In a single transaction on the same date for the delivery of
29 any number of firearms that are pistols, revolvers, or other
30 firearms capable of being concealed upon the person, the
31 department shall charge a reduced fee pursuant to this section for
32 the second and subsequent firearms that are part of that
33 transaction.

34 (j) Only one fee shall be charged pursuant to this section for a
35 single transaction on the same date for taking title or possession
36 of any number of firearms pursuant to paragraph (18) of
37 subdivision (b) of Section 12071 or subdivision (c) or (i) of
38 Section 12078.

39 (k) Whenever the Department of Justice acts pursuant to this
40 section as it pertains to firearms other than pistols, revolvers, or

1 other firearms capable of being concealed upon the person, the
2 department's acts or omissions shall be deemed to be
3 discretionary within the meaning of the California Tort Claims
4 Act pursuant to Division 3.6 (commencing with Section 810) of
5 Title 1 of the Government Code.

6 (l) As used in this section, the following definitions apply:

7 (1) "Purchaser" means the purchaser or transferee of a firearm
8 or a person being loaned a firearm.

9 (2) "Purchase" means the purchase, loan, or transfer of a
10 firearm.

11 (3) "Sale" means the sale, loan, or transfer of a firearm.

12 (4) "Seller" means, if the transaction is being conducted
13 pursuant to Section 12082, the person selling, loaning, or
14 transferring the firearm.

15 SEC. 4. Section 12078 of the Penal Code is amended to read:

16 12078. (a) (1) The waiting periods described in Sections
17 12071 and 12072 shall not apply to deliveries, transfers, or sales
18 of firearms made to persons properly identified as full-time paid
19 peace officers as defined in Chapter 4.5 (commencing with
20 Section 830) of Title 3 of Part 2, provided that the peace officers
21 are authorized by their employer to carry firearms while in the
22 performance of their duties. Proper identification is defined as
23 verifiable written certification from the head of the agency by
24 which the purchaser or transferee is employed, identifying the
25 purchaser or transferee as a peace officer who is authorized to
26 carry firearms while in the performance of his or her duties, and
27 authorizing the purchase or transfer. The certification shall be
28 delivered to the dealer at the time of purchase or transfer and the
29 purchaser or transferee shall identify himself or herself as the
30 person authorized in the certification. The dealer shall keep the
31 certification with the record of sale. On the date that the delivery,
32 sale, or transfer is made, the dealer delivering the firearm shall
33 transmit to the Department of Justice an electronic or telephonic
34 report of the transaction as is indicated in subdivision (b) or (c)
35 of Section 12077.

36 (2) Subdivision (b) of Section 12801 and the preceding
37 provisions of this article do not apply to deliveries, transfers, or
38 sales of firearms made to authorized law enforcement
39 representatives of cities, counties, cities and counties, or state or
40 federal governments for exclusive use by those governmental

1 agencies if, prior to the delivery, transfer, or sale of these
2 firearms, written authorization from the head of the agency
3 authorizing the transaction is presented to the person from whom
4 the purchase, delivery, or transfer is being made. Proper written
5 authorization is defined as verifiable written certification from
6 the head of the agency by which the purchaser or transferee is
7 employed, identifying the employee as an individual authorized
8 to conduct the transaction, and authorizing the transaction for the
9 exclusive use of the agency by which he or she is employed.
10 Within 10 days of the date a handgun is acquired by the agency,
11 a record of the same shall be entered as an institutional weapon
12 into the Automated Firearms System (AFS) via the California
13 Law Enforcement Telecommunications System (CLETS) by the
14 law enforcement or state agency. Those agencies without access
15 to AFS shall arrange with the sheriff of the county in which the
16 agency is located to input this information via this system.

17 (3) Subdivision (b) of Section 12801 and the preceding
18 provisions of this article do not apply to the loan of a firearm
19 made by an authorized law enforcement representative of a city,
20 county, or city and county, or the state or federal government to a
21 peace officer employed by that agency and authorized to carry a
22 firearm for the carrying and use of that firearm by that peace
23 officer in the course and scope of his or her duties.

24 (4) Subdivision (b) of Section 12801 and the preceding
25 provisions of this article do not apply to the delivery, sale, or
26 transfer of a firearm by a law enforcement agency to a peace
27 officer pursuant to Section 10334 of the Public Contract Code.
28 Within 10 days of the date that a handgun is sold, delivered, or
29 transferred pursuant to Section 10334 of the Public Contract
30 Code to that peace officer, the name of the officer and the make,
31 model, serial number, and other identifying characteristics of the
32 firearm being sold, transferred, or delivered shall be entered into
33 the Automated Firearms System (AFS) via the California Law
34 Enforcement Telecommunications System (CLETS) by the law
35 enforcement or state agency that sold, transferred, or delivered
36 the firearm. Those agencies without access to AFS shall arrange
37 with the sheriff of the county in which the agency is located to
38 input this information via this system.

39 (5) Subdivision (b) of Section 12801 and the preceding
40 provisions of this article do not apply to the delivery, sale, or

1 transfer of a firearm by a law enforcement agency to a retiring
2 peace officer who is authorized to carry a firearm pursuant to
3 Section 12027.1. Within 10 days of the date that a handgun is
4 sold, delivered, or transferred to that retiring peace officer, the
5 name of the officer and the make, model, serial number, and
6 other identifying characteristics of the firearm being sold,
7 transferred, or delivered shall be entered into the Automated
8 Firearms System (AFS) via the California Law Enforcement
9 Telecommunications System (CLETS) by the law enforcement or
10 state agency that sold, transferred, or delivered the firearm.
11 Those agencies without access to AFS shall arrange with the
12 sheriff of the county in which the agency is located to input this
13 information via this system.

14 (6) Subdivision (d) of Section 12072 and subdivision (b) of
15 Section 12801 do not apply to sales, deliveries, or transfers of
16 firearms to authorized representatives of cities, cities and
17 counties, counties, or state or federal governments for those
18 governmental agencies where the entity is acquiring the weapon
19 as part of an authorized, voluntary program where the entity is
20 buying or receiving weapons from private individuals. Any
21 weapons acquired pursuant to this paragraph shall be disposed of
22 pursuant to the applicable provisions of Section 12028 or 12032.

23 (7) Subdivision (d) of Section 12072 and subdivision (b) of
24 Section 12801 shall not apply to the sale, loan, delivery, or
25 transfer of a firearm made by an authorized law enforcement
26 representative of a city, county, city and county, state, or the
27 federal government to any public or private nonprofit historical
28 society, museum, or institutional collection or the purchase or
29 receipt of that firearm by that public or private nonprofit
30 historical society, museum, or institutional collection if all of the
31 following conditions are met:

32 (A) The entity receiving the firearm is open to the public.

33 (B) The firearm prior to delivery is deactivated or rendered
34 inoperable.

35 (C) The firearm is not subject to Section 12028, 12028.5,
36 12030, or 12032.

37 (D) The firearm is not prohibited by other provisions of law
38 from being sold, delivered, or transferred to the public at large.

39 (E) Prior to delivery, the entity receiving the firearm submits a
40 written statement to the law enforcement representative stating

1 that the firearm will not be restored to operating condition, and
2 will either remain with that entity, or if subsequently disposed of,
3 will be transferred in accordance with the applicable provisions
4 of this article and, if applicable, Section 12801.

5 (F) Within 10 days of the date that the firearm is sold, loaned,
6 delivered, or transferred to that entity, the name of the
7 government entity delivering the firearm, and the make, model,
8 serial number, and other identifying characteristics of the firearm
9 and the name of the person authorized by the entity to take
10 possession of the firearm shall be reported to the department in a
11 manner prescribed by the department.

12 (G) In the event of a change in the status of the designated
13 representative, the entity shall notify the department of a new
14 representative within 30 days.

15 (8) Subdivision (d) of Section 12072 and subdivision (b) of
16 Section 12801 shall not apply to the sale, loan, delivery, or
17 transfer of a firearm made by any person other than a
18 representative of an authorized law enforcement agency to any
19 public or private nonprofit historical society, museum, or
20 institutional collection if all of the following conditions are met:

21 (A) The entity receiving the firearm is open to the public.

22 (B) The firearm is deactivated or rendered inoperable prior to
23 delivery.

24 (C) The firearm is not of a type prohibited from being sold,
25 delivered, or transferred to the public.

26 (D) Prior to delivery, the entity receiving the firearm submits a
27 written statement to the person selling, loaning, or transferring
28 the firearm stating that the firearm will not be restored to
29 operating condition, and will either remain with that entity, or if
30 subsequently disposed of, will be transferred in accordance with
31 the applicable, provisions of this article and, if applicable Section
32 12801.

33 (E) If title to a handgun is being transferred to the public or
34 private nonprofit historical society, museum, or institutional
35 collection, then the designated representative of that public or
36 private historical society, museum or institutional collection
37 within 30 days of taking possession of that handgun, shall
38 forward by prepaid mail or deliver in person to the Department of
39 Justice, a single report signed by both parties to the transaction,
40 that includes information identifying the person representing that

1 public or private historical society, museum, or institutional
2 collection, how title was obtained and from whom, and a
3 description of the firearm in question, along with a copy of the
4 written statement referred to in subparagraph (D). The report
5 forms that are to be completed pursuant to this paragraph shall be
6 provided by the Department of Justice.

7 (F) In the event of a change in the status of the designated
8 representative, the entity shall notify the department of a new
9 representative within 30 days.

10 (b) (1) Section 12071, subdivisions (c) and (d) of Section
11 12072, and subdivision (b) of Section 12801 shall not apply to
12 deliveries, sales, or transfers of firearms between or to importers
13 and manufacturers of firearms licensed to engage in that business
14 pursuant to Chapter 44 (commencing with Section 921) of Title
15 18 of the United States Code and the regulations issued pursuant
16 thereto.

17 (2) Subdivision (b) of Section 12801 shall not apply to the
18 delivery, sale, or transfer of a handgun to a person licensed
19 pursuant to Section 12071, where the licensee is receiving the
20 handgun in the course and scope of his or her activities as a
21 person licensed pursuant to Section 12071.

22 (c) (1) Subdivision (d) of Section 12072 shall not apply to the
23 infrequent transfer of a firearm that is not a handgun by gift,
24 bequest, intestate succession, or other means by one individual to
25 another if both individuals are members of the same immediate
26 family.

27 (2) Subdivision (d) of Section 12072 shall not apply to the
28 infrequent transfer of a handgun by gift, bequest, intestate
29 succession, or other means by one individual to another if both
30 individuals are members of the same immediate family and all of
31 the following conditions are met:

32 (A) The person to whom the firearm is transferred shall,
33 within 30 days of taking possession of the firearm, forward by
34 prepaid mail or deliver in person to the Department of Justice, a
35 report that includes information concerning the individual taking
36 possession of the firearm, how title was obtained and from
37 whom, and a description of the firearm in question. The report
38 forms that individuals complete pursuant to this paragraph shall
39 be provided to them by the Department of Justice.

1 (B) The person taking title to the firearm shall first obtain a
2 handgun safety certificate.

3 (C) The person receiving the firearm is 18 years of age or
4 older.

5 (3) As used in this subdivision, “immediate family member”
6 means any one of the following relationships:

7 (A) Parent and child.

8 (B) Grandparent and grandchild.

9 (d) (1) Subdivision (d) of Section 12072 shall not apply to the
10 infrequent loan of firearms between persons who are personally
11 known to each other for any lawful purpose, if the loan does not
12 exceed 30 days in duration and, when the firearm is a handgun,
13 commencing January 1, 2003, the individual being loaned the
14 handgun has a valid handgun safety certificate.

15 (2) Subdivision (d) of Section 12072, and subdivision (b) of
16 Section 12801 shall not apply to the loan of a firearm where all
17 of the following conditions exist:

18 (A) The person loaning the firearm is at all times within the
19 presence of the person being loaned the firearm.

20 (B) The loan is for a lawful purpose.

21 (C) The loan does not exceed three days in duration.

22 (D) The individual receiving the firearm is not prohibited from
23 owning or possessing a firearm pursuant to Section 12021 or
24 12021.1 of this code, or by Section 8100 or 8103 of the Welfare
25 and Institutions Code.

26 (E) The person loaning the firearm is 18 years of age or older.

27 (F) The person being loaned the firearm is 18 years of age or
28 older.

29 (e) Section 12071, subdivisions (c) and (d) of Section 12072,
30 and subdivision (b) of Section 12801 shall not apply to the
31 delivery of a firearm to a gunsmith for service or repair, or to the
32 return of the firearm to its owner by the gunsmith.

33 (f) Subdivision (d) of Section 12072 and subdivision (b) of
34 Section 12801 shall not apply to the sale, delivery, or transfer of
35 firearms by persons who reside in this state to persons who reside
36 outside this state who are licensed pursuant to Chapter 44
37 (commencing with Section 921) of Title 18 of the United States
38 Code and the regulations issued pursuant thereto, if the sale,
39 delivery, or transfer is in accordance with Chapter 44

1 (commencing with Section 921) of Title 18 of the United States
2 Code and the regulations issued pursuant thereto.

3 (g) (1) Subdivision (d) of Section 12072 shall not apply to the
4 infrequent sale or transfer of a firearm, other than a handgun, at
5 auctions or similar events conducted by nonprofit mutual or
6 public benefit corporations organized pursuant to the
7 Corporations Code.

8 As used in this paragraph, the term “infrequent” shall not be
9 construed to prohibit different local chapters of the same
10 nonprofit corporation from conducting auctions or similar events,
11 provided the individual local chapter conducts the auctions or
12 similar events infrequently. It is the intent of the Legislature that
13 different local chapters, representing different localities, be
14 entitled to invoke the exemption created by this paragraph,
15 notwithstanding the frequency with which other chapters of the
16 same nonprofit corporation may conduct auctions or similar
17 events.

18 (2) Subdivision (d) of Section 12072 shall not apply to the
19 transfer of a firearm other than a handgun, if the firearm is
20 donated for an auction or similar event described in paragraph (1)
21 and the firearm is delivered to the nonprofit corporation
22 immediately preceding, or contemporaneous with, the auction or
23 similar event.

24 (3) The waiting period described in Sections 12071 and 12072
25 shall not apply to a dealer who delivers a firearm other than a
26 handgun at an auction or similar event described in paragraph
27 (1), as authorized by subparagraph (C) of paragraph (1) of
28 subdivision (b) of Section 12071. Within two business days of
29 completion of the application to purchase, the dealer shall
30 forward by prepaid mail to the Department of Justice a report of
31 the same as is indicated in subdivision (c) of Section 12077. If
32 the electronic or telephonic transfer of applicant information is
33 used, within two business days of completion of the application
34 to purchase, the dealer delivering the firearm shall transmit to the
35 Department of Justice an electronic or telephonic report of the
36 same as is indicated in subdivision (c) of Section 12077.

37 (h) Subdivision (d) of Section 12072 and subdivision (b) of
38 Section 12801 shall not apply to the loan of a firearm to a person
39 18 years of age or older for the purposes of shooting at targets if
40 the loan occurs on the premises of a target facility that holds a

1 business or regulatory license or on the premises of any club or
2 organization organized for the purposes of practicing shooting at
3 targets upon established ranges, whether public or private, if the
4 firearm is at all times kept within the premises of the target range
5 or on the premises of the club or organization.

6 (i) (1) Subdivision (d) of Section 12072 shall not apply to a
7 person who takes title or possession of a firearm that is not a
8 handgun by operation of law if the person is not prohibited by
9 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
10 the Welfare and Institutions Code from possessing firearms.

11 (2) Subdivision (d) of Section 12072 shall not apply to a
12 person who takes title or possession of a handgun by operation of
13 law if the person is not prohibited by Section 12021 or 12021.1
14 of this code or Section 8100 or 8103 of the Welfare and
15 Institutions Code from possessing firearms and all of the
16 following conditions are met:

17 (A) If the person taking title or possession is neither a levying
18 officer as defined in Section 481.140, 511.060, or 680.210 of the
19 Code of Civil Procedure, nor a person who is receiving that
20 firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2)
21 of subdivision (u), the person shall, within 30 days of taking
22 possession, forward by prepaid mail or deliver in person to the
23 Department of Justice, a report of information concerning the
24 individual taking possession of the firearm, how title or
25 possession was obtained and from whom, and a description of the
26 firearm in question. The reports that individuals complete
27 pursuant to this paragraph shall be provided to them by the
28 department.

29 (B) If the person taking title or possession is receiving the
30 firearm pursuant to subparagraph (G) of paragraph (2) of
31 subdivision (u), the person shall do both of the following:

32 (i) Within 30 days of taking possession, forward by prepaid
33 mail or deliver in person to the department, a report of
34 information concerning the individual taking possession of the
35 firearm, how title or possession was obtained and from whom,
36 and a description of the firearm in question. The reports that
37 individuals complete pursuant to this paragraph shall be provided
38 to them by the department.

39 (ii) Prior to taking title or possession of the firearm, the person
40 shall obtain a handgun safety certificate.

(C) Where the person receiving title or possession of the handgun is a person described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(D) Where the person receiving title or possession of the handgun is a person described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this subparagraph unless, prior to the delivery of the same, the person presents proof to the agency that he or she is the holder of a handgun safety certificate.

(3) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

(j) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to deliveries, transfers, or returns

1 of firearms made pursuant to Section 12021.3, 12028, 12028.5,
2 or 12030.

3 (k) Section 12071, subdivision (c) of Section 12072, and
4 subdivision (b) of Section 12801 shall not apply to any of the
5 following:

6 (1) The delivery, sale, or transfer of unloaded firearms that are
7 not handguns by a dealer to another dealer upon proof of
8 compliance with the requirements of paragraph (1) of subdivision
9 (f) of Section 12072.

10 (2) The delivery, sale, or transfer of unloaded firearms by
11 dealers to persons who reside outside this state who are licensed
12 pursuant to Chapter 44 (commencing with Section 921) of Title
13 18 of the United States Code and the regulations issued pursuant
14 thereto.

15 (3) The delivery, sale, or transfer of unloaded firearms to a
16 wholesaler if the firearms are being returned to the wholesaler
17 and are intended as merchandise in the wholesaler's business.

18 (4) The delivery, sale, or transfer of unloaded firearms by one
19 dealer to another dealer if the firearms are intended as
20 merchandise in the receiving dealer's business upon proof of
21 compliance with the requirements of paragraph (1) of subdivision
22 (f) of Section 12072.

23 (5) The delivery, sale, or transfer of an unloaded firearm that
24 is not a handgun by a dealer to himself or herself.

25 (6) The loan of an unloaded firearm by a dealer who also
26 operates a target facility that holds a business or regulatory
27 license on the premises of the building designated in the license
28 or whose building designated in the license is on the premises of
29 any club or organization organized for the purposes of practicing
30 shooting at targets upon established ranges, whether public or
31 private, to a person at that target facility or that club or
32 organization, if the firearm is at all times kept within the
33 premises of the target range or on the premises of the club or
34 organization.

35 (l) A person who is exempt from subdivision (d) of Section
36 12072 or is otherwise not required by law to report his or her
37 acquisition, ownership, or disposal of a handgun or who moves
38 out of this state with his or her handgun may submit a report of
39 the same to the Department of Justice in a format prescribed by
40 the department.

(m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a handgun by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071 by complying with paragraph (1) of subdivision (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c)—~~and~~, (d), and *paragraph (1) of subdivision (f)* of Section 12072 shall not apply

1 to the delivery, sale, or transfer of firearms regulated pursuant to
2 Section 12020, Chapter 2 (commencing with Section 12200), or
3 Chapter 2.3 (commencing with Section 12275), if the delivery,
4 sale, or transfer is conducted in accordance with the applicable
5 provisions of Section 12020, Chapter 2 (commencing with
6 Section 12200), or Chapter 2.3 (commencing with Section
7 12275).

8 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of
9 Section 12072 shall not apply to the loan of a firearm that is not a
10 handgun to a minor, with the express permission of the parent or
11 legal guardian of the minor, if the loan does not exceed 30 days
12 in duration and is for a lawful purpose.

13 (2) Paragraph (3) of subdivision (a) of Section 12072,
14 subdivision (d) of Section 12072, and subdivision (b) of Section
15 12801 shall not apply to the loan of a handgun to a minor by a
16 person who is not the parent or legal guardian of the minor if all
17 of the following circumstances exist:

18 (A) The minor has the written consent of his or her parent or
19 legal guardian that is presented at the time of, or prior to the time
20 of, the loan, or is accompanied by his or her parent or legal
21 guardian at the time the loan is made.

22 (B) The minor is being loaned the firearm for the purpose of
23 engaging in a lawful, recreational sport, including, but not
24 limited to, competitive shooting, or agricultural, ranching, or
25 hunting activity, or a motion picture, television, or video
26 production, or entertainment or theatrical event, the nature of
27 which involves the use of a firearm.

28 (C) The duration of the loan does not exceed the amount of
29 time that is reasonably necessary to engage in the lawful,
30 recreational sport, including, but not limited to, competitive
31 shooting, or agricultural, ranching, or hunting activity, or a
32 motion picture, television, or video production, or entertainment
33 or theatrical event, the nature of which involves the use of a
34 firearm.

35 (D) The duration of the loan does not, in any event, exceed 10
36 days.

37 (3) Paragraph (3) of subdivision (a), and subdivision (d), of
38 Section 12072, and subdivision (b) of Section 12801 shall not
39 apply to the loan of a handgun to a minor by his or her parent or
40 legal guardian if both of the following circumstances exist:

1 (A) The minor is being loaned the firearm for the purposes of
2 engaging in a lawful, recreational sport, including, but not
3 limited to, competitive shooting, or agricultural, ranching, or
4 hunting activity, or a motion picture, television, or video
5 production, or entertainment or theatrical event, the nature of
6 which involves the use of a firearm.

7 (B) The duration of the loan does not exceed the amount of
8 time that is reasonably necessary to engage in the lawful,
9 recreational sport, including, but not limited to, competitive
10 shooting, or agricultural, ranching, or hunting activity, or a
11 motion picture, television, or video production, or entertainment
12 or theatrical event, the nature of which involves the use of a
13 firearm.

14 (4) Paragraph (3) of subdivision (a), and subdivision (d), of
15 Section 12072 shall not apply to the transfer or loan of a firearm
16 that is not a handgun to a minor by his or her parent or legal
17 guardian.

18 (5) Paragraph (3) of subdivision (a), and subdivision (d), of
19 Section 12072 shall not apply to the transfer or loan of a firearm
20 that is not a handgun to a minor by his or her grandparent who is
21 not the legal guardian of the minor if the transfer is done with the
22 express permission of the parent or legal guardian of the minor.

23 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of
24 Section 12072 shall not apply to the sale of a handgun if both of
25 the following requirements are satisfied:

26 (A) The sale is to a person who is at least 18 years of age.

27 (B) The firearm is an antique firearm as defined in paragraph
28 (16) of subsection (a) of Section 921 of Title 18 of the United
29 States Code.

30 (q) Subdivision (d) of Section 12072 shall not apply to the
31 loan of a firearm that is not a handgun to a licensed hunter for
32 use by that licensed hunter for a period of time not to exceed the
33 duration of the hunting season for which that firearm is to be
34 used.

35 (r) The waiting period described in Section 12071 or 12072
36 shall not apply to the delivery, sale, or transfer of a firearm to the
37 holder of a special weapons permit issued by the Department of
38 Justice issued pursuant to Section 12095, 12230, 12250, or
39 12305. On the date that the application to purchase is completed,
40 the dealer delivering the firearm shall transmit to the Department

1 of Justice an electronic or telephonic report of the same as is
2 indicated in subdivision (b) or (c) of Section 12077.

3 (s) (1) Subdivision (d) of Section 12072 and subdivision (b)
4 of Section 12801 shall not apply to the infrequent loan of an
5 unloaded firearm by a person who is neither a dealer as defined
6 in Section 12071 nor a federal firearms licensee pursuant to
7 Chapter 44 of Title 18 of the United States Code, to a person 18
8 years of age or older for use solely as a prop in a motion picture,
9 television, video, theatrical, or other entertainment production or
10 event.

11 (2) Subdivision (d), and paragraph (1) of subdivision (f), of
12 Section 12072, and subdivision (b) of Section 12801 shall not
13 apply to the loan of an unloaded firearm by a person who is not a
14 dealer as defined in Section 12071 but who is a federal firearms
15 licensee pursuant to Chapter 44 of Title 18 of the United States
16 Code, to a person who possesses a valid entertainment firearms
17 permit issued pursuant to Section 12081, for use solely as a prop
18 in a motion picture, television, video, theatrical, or other
19 entertainment production or event. The person loaning the
20 firearm pursuant to this paragraph shall retain a photocopy of the
21 entertainment firearms permit as proof of compliance with this
22 requirement.

23 (3) Subdivision (b) of Section 12071, subdivision (c) of, and
24 paragraph (1) of subdivision (f) of, Section 12072, and
25 subdivision (b) of Section 12801 shall not apply to the loan of an
26 unloaded firearm by a dealer as defined in Section 12071, to a
27 person who possesses a valid entertainment firearms permit
28 issued pursuant to Section 12081, for use solely as a prop in a
29 motion picture, television, video, theatrical, or other
30 entertainment production or event. The dealer shall retain a
31 photocopy of the entertainment firearms permit as proof of
32 compliance with this requirement.

33 (t) (1) The waiting period described in Section 12071 or
34 12072 shall not apply to the sale, delivery, loan, or transfer of a
35 firearm that is a curio or relic, as defined in Section 478.11 of
36 Title 27 of the Code of Federal Regulations, or its successor, by a
37 dealer to a person who is licensed as a collector pursuant to
38 Chapter 44 (commencing with Section 921) of Title 18 of the
39 United States Code and the regulations issued pursuant thereto
40 who has a current certificate of eligibility issued to him or her by

1 the Department of Justice pursuant to Section 12071. On the date
2 that the delivery, sale, or transfer is made, the dealer delivering
3 the firearm shall transmit to the Department of Justice an
4 electronic or telephonic report of the transaction as is indicated in
5 subdivision (b) or (c) of Section 12077.

6 (2) Subdivision (d) *and paragraph (1) of subdivision (f)* of
7 Section 12072 shall not apply to the infrequent sale, loan, or
8 transfer of a firearm that is not a handgun, which is a curio or
9 relic manufactured at least 50 years prior to the current date, but
10 not including replicas thereof, as defined in Section 478.11 of
11 Title 27 of the Code of Federal Regulations, or its successor.

12 (u) As used in this section:

13 (1) “Infrequent” has the same meaning as in paragraph (1) of
14 subdivision (c) of Section 12070.

15 (2) “A person taking title or possession of firearms by
16 operation of law” includes, but is not limited to, any of the
17 following instances wherein an individual receives title to, or
18 possession of, firearms:

19 (A) The executor or administrator of an estate if the estate
20 includes firearms.

21 (B) A secured creditor or an agent or employee thereof when
22 the firearms are possessed as collateral for, or as a result of, a
23 default under a security agreement under the Commercial Code.

24 (C) A levying officer, as defined in Section 481.140, 511.060,
25 or 680.260 of the Code of Civil Procedure.

26 (D) A receiver performing his or her functions as a receiver if
27 the receivership estate includes firearms.

28 (E) A trustee in bankruptcy performing his or her duties if the
29 bankruptcy estate includes firearms.

30 (F) An assignee for the benefit of creditors performing his or
31 her functions as an assignee, if the assignment includes firearms.

32 (G) A transmutation of property consisting of firearms
33 pursuant to Section 850 of the Family Code.

34 (H) Firearms passing to a surviving spouse pursuant to
35 Chapter 1 (commencing with Section 13500) of Part 2 of
36 Division 8 of the Probate Code.

37 (I) Firearms received by the family of a police officer or
38 deputy sheriff from a local agency pursuant to Section 50081 of
39 the Government Code.

1 (J) The transfer of a firearm by a law enforcement agency to
2 the person who found the firearm where the delivery is to the
3 person as the finder of the firearm pursuant to Article 1
4 (commencing with Section 2080) of Chapter 4 of Division 3 of
5 the Civil Code.

6 SEC. 5. Section 12082 of the Penal Code is amended to read:

7 12082. (a) A person shall complete any sale, loan, or transfer
8 of a firearm through a person licensed pursuant to Section 12071
9 in accordance with this section in order to comply with
10 subdivision (d) of Section 12072. The seller or transferor or the
11 person loaning the firearm shall deliver the firearm to the dealer
12 who shall retain possession of that firearm. The dealer shall then
13 deliver the firearm to the purchaser or transferee or the person
14 being loaned the firearm, if it is not prohibited, in accordance
15 with subdivision (c) of Section 12072. If the dealer cannot legally
16 deliver the firearm to the purchaser or transferee or the person
17 being loaned the firearm, the dealer shall forthwith, without
18 waiting for the conclusion of the waiting period described in
19 Sections 12071 and 12072, return the firearm to the transferor or
20 seller or the person loaning the firearm. The dealer shall not
21 return the firearm to the seller or transferor or the person loaning
22 the firearm when to do so would constitute a violation of
23 subdivision (a) of Section 12072. If the dealer cannot legally
24 return the firearm to the transferor or seller or the person loaning
25 the firearm, then the dealer shall forthwith deliver the firearm to
26 the sheriff of the county or the chief of police or other head of a
27 municipal police department of any city or city and county who
28 shall then dispose of the firearm in the manner provided by
29 Sections 12028 and 12032. The purchaser or transferee or person
30 being loaned the firearm may be required by the dealer to pay a
31 fee not to exceed ten dollars (\$10) per firearm, and no other fee
32 may be charged by the dealer for a sale, loan, or transfer of a
33 firearm conducted pursuant to this section, except for the
34 applicable ~~fees~~ *fee* that ~~may be charged pursuant to Sections~~
35 ~~12076, 12076.5, and 12088.9 and forwarded to the Department of~~
36 ~~Justice, and the fees set forth in Section 12805 may charge~~
37 ~~pursuant to Section 12076.~~ Nothing in these provisions shall
38 prevent a dealer from charging a smaller fee. ~~The dealer may not~~
39 ~~charge any additional fees. The fee that the department may~~
40 ~~charge is the fee that would be applicable pursuant to Section~~

1 12076, if the dealer was selling, transferring, or delivering a
2 firearm to a purchaser or transferee or a person being loaned a
3 firearm, without any other parties being involved in the
4 transaction.

5 (b) The Attorney General shall adopt regulations under this
6 section to do all of the following:

7 (1) Allow the seller or transferor of the person loaning the
8 firearm, and the purchaser or transferee or the person being
9 loaned the firearm, to complete a sale, loan, or transfer through a
10 dealer, and to allow those persons and the dealer to comply with
11 the requirements of this section and Sections 12071, 12072,
12 12076, and 12077 and to preserve the confidentiality of those
13 records.

14 (2) Where a personal handgun importer is selling or
15 transferring a pistol, revolver, or other firearm capable of being
16 concealed upon the person to comply with clause (ii) of
17 subparagraph (A) of paragraph (2) of subdivision (f) of Section
18 12072, to allow a personal handgun importer's ownership of the
19 pistol, revolver, or other firearm capable of being concealed upon
20 the person being sold or transferred to be recorded in a manner
21 that if the firearm is returned to that personal handgun importer
22 because the sale or transfer cannot be completed, the Department
23 of Justice will have sufficient information about that personal
24 handgun importer so that a record of his or her ownership can be
25 maintained in the registry provided by subdivision (c) of Section
26 11106.

27 (3) Ensure that the register or record of electronic transfer
28 shall state the name and address of the seller or transferor of the
29 firearm or the person loaning the firearm and whether or not the
30 person is a personal handgun importer in addition to any other
31 information required by Section 12077.

32 (c) Notwithstanding any other provision of law, a dealer who
33 does not sell, transfer, or keep an inventory of handguns is not
34 required to process private party transfers of handguns.

35 (d) A violation of this section by a dealer is a misdemeanor.

36 SEC. 6. Section 12083 of the Penal Code is repealed.

37 ~~12083. (a) A person who is licensed as a dealer, importer,~~
38 ~~manufacturer, or collector of firearms, pursuant to Chapter 44~~
39 ~~(commencing with Section 921) of Title 18 of the United States~~
40 ~~Code and the regulations issued pursuant thereto, and whose~~

1 ~~licensed premises are within this state, shall, within 30 days of~~
2 ~~the date of issuance of the license, provide a copy of the license~~
3 ~~with an original signature of the licensee to the Department of~~
4 ~~Justice in a manner to be determined by the department. If the~~
5 ~~date of issuance of the license is prior to January 1, 2004, the~~
6 ~~person shall provide a copy of the license with the original~~
7 ~~signature to the department no later than February 1, 2004.~~

8 ~~(b) A violation of this section is punishable as an infraction.~~

9 ~~(c) Any costs incurred by the department to implement this~~
10 ~~section and to implement the amendments made to Section 12071~~
11 ~~by the act which enacted this section shall be funded from the~~
12 ~~Dealers' Record of Sale Special Account, as set forth in~~
13 ~~subdivision (g) of Section 12076, upon appropriation by the~~
14 ~~Legislature.~~

15 SEC. 7. Section 12083 is added to the Penal Code, to read:

16 12083. (a) Commencing January 1, 2008, the Department of
17 Justice shall keep a centralized list of persons who identify
18 themselves as being licensed pursuant to Chapter 44
19 (commencing with Section 921) of Title 18 of the United States
20 Code as a dealer, pawnbroker, importer or manufacturer of
21 firearms whose licensed premises are within this state and who
22 declare to the department an exemption from the firearms dealer
23 licensing requirements of Section 12070. The list shall be known
24 as the centralized list of exempted federal firearms licensees. To
25 qualify for placement on the centralized list, an applicant shall do
26 all of the following:

27 (1) Possess a valid federal firearms license pursuant to Chapter
28 44 (commencing with Section 921) of Title 18 of the United
29 States Code as a dealer, pawnbroker, importer, or manufacturer
30 of firearms.

31 (2) Possess a current, valid certificate of eligibility pursuant to
32 Section 12071.

33 (3) Maintain with the department a signed declaration
34 enumerating the applicant's statutory exemptions from licensing
35 requirements of Section 12070. Any person furnishing a fictitious
36 name, knowingly furnishing any incorrect information, or
37 knowingly omitting any information for the declaration shall be
38 guilty of a misdemeanor.

39 (b) Commencing January 1, 2008, the department shall assess
40 an annual fee of one hundred fifteen dollars (\$115) to cover its

1 costs of maintaining the centralized list of exempted federal
2 firearms licensees prescribed in by subdivision (a), and for the
3 cost of maintaining the firearm shipment verification number
4 system described in subdivision (f) of Section 12072. The
5 department may increase the fee at a rate not to exceed the
6 increase in the California Consumer Price Index as compiled and
7 reported by the Department of Industrial Relations. The fees
8 collected shall be deposited in the Dealers' Record of Sale
9 Special Account.

10 (c) (1) Any person listed pursuant to Chapter 44 (commencing
11 with Section 921) of Title 18 of the United States Code as a
12 dealer, pawnbroker, importer, or manufacturer of firearms whose
13 licensed premises are within this state shall not import or receive
14 firearms from any source unless listed on the centralized list of
15 firearms dealers pursuant to Section 12071, or the centralized list
16 of exempted federal firearms licensees pursuant to subdivision
17 (a), or the centralized list of firearms manufacturers pursuant to
18 subdivision (f) of Section 12086.

19 (2) A violation of this subdivision is a misdemeanor.

20 (d) (1) All persons on the centralized list of exempted federal
21 firearms licensees prescribed by subdivision (a) shall record and
22 keep on file for three years, the verification number that shall
23 accompany firearms received from other federal firearms
24 licensees pursuant to subdivision (f) of Section 12072.

25 (2) A violation of this subdivision is cause for immediate
26 removal from the centralized list.

27 (e) Information compiled from the list described in subdivision
28 (a) shall be made available for the following purposes:

29 (1) Requests from local, state, and federal law enforcing
30 agencies and the duly constituted city, county, and city and
31 county licensing authorities.

32 (2) When the information is requested by a person licensed
33 pursuant to Chapter 44 (commencing with Section 921) of Title
34 18 of the United States Code for determining the validity of the
35 license for firearm shipments.

36 (f) The department may conduct onsite inspections at the
37 business premises of a person on the centralized list described in
38 subdivision (a) to determine compliance with firearms laws
39 pursuant to Article 4 (commencing with Section 12070) of
40 Chapter 1 of Title 2 of Part 4 of the Penal Code. During the

1 inspection the following firearm records shall be made available
2 for review:

3 (1) Federal records referred to in subdivision (a) of Section
4 478.125 of Title 27 of the Code of Federal Regulations and the
5 bound book containing the same information referred to in
6 Section 478.124a and subdivision (e) of Section 478.125 of Title
7 27 of the Code of Federal Regulations.

8 (2) Verification numbers issued pursuant to subdivision (f) of
9 Section 12072.

10 (3) Any other records requested by the department to
11 determine compliance with this article.

12 (g) The department may remove from the centralized list
13 described in subdivision (a), any person who violates this article.

14 (h) The department may adopt regulations as necessary to
15 carry out the provisions of this section, subdivision (f) of Section
16 12072, and Section 12071.

17 SEC. 8. The Legislature finds and declares the following:

18 Section 7 of this act, which adds Section 12083 of the Penal
19 Code, imposes a limitation on the public's right of access to the
20 writings of public officials and agencies within the meaning of
21 Section 3 of Article I of the California Constitution. Pursuant to
22 that constitutional provision, the Legislature makes the following
23 findings to demonstrate the interest protected by this limitation
24 and the need for protecting that interest:

25 (a) The Legislature has endeavored to protect the privacy
26 interests of firearms owners with prior legislation such as
27 subdivision (e) of Section 12071 and Section 12288.5. This
28 legislation will provide the same protections as prior legislation.

29 (b) Unlike California licensed dealers, federal firearms
30 licensees that are not operating as dealers may possess firearms
31 in unsecured locations. In light of the potential for firearms
32 thefts, the names and addresses of those license holders should
33 not be made available to the general public.

34 (c) In order to prevent identity theft and persons fraudulently
35 posing as federal firearms licensees, the names, addresses, and
36 license numbers of federal firearms licensees should be kept
37 confidential except for law enforcement purposes or to verify the
38 authenticity of a license for purposes of firearms transactions.

39 SEC. 9. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the
4 penalty for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition of a
6 crime within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

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